Study H-750 March 19, 2012

# Memorandum 2012-15

## Community Redevelopment Law Cleanup: Early Stages of Redevelopment

Health and Safety Code Section 34189(b) requires the Law Revision Commission to "draft a Community Redevelopment Law cleanup bill for consideration by the Legislature no later than January 1, 2013." For a discussion of the methodology that the Commission is using in this study, including the use of a savings provision and the staff's current draft of the savings provision, see Memorandum 2011-11. This memorandum provides preliminary analysis and staff recommendations regarding Articles 1-3 of Chapter 4 ("Redevelopment Procedures and Activities") of Part 1 of Division 24 of the Health and Safety Code (Health & Safety Code §§ 33300-33328.7). Those sections are reproduced in the attached Exhibit.

Throughout this memorandum, the staff uses the term "transitional period" as it is defined in the proposed savings provision:

> "Transitional period" means the period during which either or both of the following are true:
>
> (A) A successor agency is winding down the affairs of a former redevelopment agency.
>
> (B) An arbitration, administrative adjudication or other administrative proceeding, civil action or proceeding, criminal action or proceeding, or any other kind of legally binding proceeding relating to redevelopment is pending or may be brought without violating the applicable statute of limitations.

See Memorandum 2012-11, p. 9.

Unless otherwise indicated, all statutory citations in this memorandum are to the Health and Safety Code.

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Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

## TWO-STEP ANALYSIS

In this memorandum, the staff will first group the provisions of each article by subject matter. Each subject matter group will then be analyzed separately, using the same two-step process described and applied in Memorandum 2012-12:

(1) **Analyze the relevance of the provisions *after* the transitional period.** First, the staff will assess whether the group of provisions will serve any purpose after the end of the transitional period. In other words, once the affairs of all former redevelopment agencies ("RDAs") have been wound down and all redevelopment-related litigation has been finally resolved, will the analyzed provisions still be needed? If not, the provisions are obsolete and should be repealed. If the group of provisions would serve some continuing purpose after the end of the transitional period, the staff will recommend that the provisions be retained, or suggest another means of effectively dealing with the situation.

(2) **Analyze the relevance of the provisions *during* the transitional period.** Second, the staff will assess whether the group of provisions might have some continuing utility during the transitional period that would not be adequately preserved by the savings provision. If so, the staff will assess whether and how to adjust the savings provision to account for the issue.

## ANALYSIS OF CHAPTER 4 — REDEVELOPMENT PROCEDURES AND ACTIVITIES

Chapter 4 of the Community Redevelopment Law (Health & Safety Code §§ 33300-33490) is entitled "Redevelopment Procedures and Activities." The chapter consists of numerous articles, the first three of which are analyzed below. These three articles relate to early stages of the redevelopment process. The remaining articles will be analyzed in future memoranda.

### Article 1. Community Prerequisites

Article 1 (Sections 33300-33302) is a short article entitled "Community Prerequisites." Under this article, two community prerequisites must be met before any area is designated for redevelopment: (1) the community must have a planning agency, and (2) the community must have a general plan. The discussion below applies our two-step methodology to that article.

*Relevance After Transitional Period*

The provisions in this article relate to the redevelopment process. Once all redevelopment activity has ceased and all related litigation has been resolved (i.e., the "transitional period" has ended), there will no longer be any need to specify community prerequisites for redevelopment. Therefore, **these provisions will be obsolete and should be repealed.**

*Relevance During Transitional Period*

During the transitional period, successor agencies will be winding down the affairs of redevelopment agencies, not commencing new redevelopment projects. *Compare* Section 34164 (redevelopment agencies to cease specified redevelopment activities) *with* Sections 34173 (successor agency has all authority, rights, powers, duties, and obligations previously vested with redevelopment agency, "[e]xcept for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part") *and* 34177 (duties of successor agencies). Consequently, it should not be necessary to refer to the article on community prerequisites for designating an area for redevelopment.

In the unlikely event of litigation over whether the community prerequisites were satisfied in connection with a specific redevelopment project, the proposed savings provision should be sufficient to preserve the effect of "Article 1. Community Prerequisites." As recommended by the staff, subdivision (b) of the savings provision would make clear that the repeal of a provision by the clean-up legislation would have no effect, during the transitional period, on the "substance, construction, or application" of former law. See Memorandum 2012-11, p. 8. The savings provision would further state:

> (c) The Legislature makes the following declarations of intent:
> ….
> (3) The substantive and procedural law applicable in any redevelopment-related adjudicative proceeding is not affected in any way by the enactment of the Redevelopment Law Clean-Up Act. Whatever law governed those proceedings prior to enactment of the Redevelopment Law Clean-Up Act would apply to the same extent during the transitional period, notwithstanding the repeal or amendment of any code provision by the Redevelopment Law Clean-Up Act.
> (4) Nothing in the Redevelopment Law Clean-Up Act is intended to endorse, abrogate, or otherwise affect any judicial decision interpreting a provision of former law.

These statements should be sufficient to make clear that the repeal of "Article 1. Community Prerequisites" would have no effect on any litigation concerning such prerequisites. **No adjustment of the savings provision appears necessary to address this context.**

**Article 2. Designation of Survey Area**

Article 2 (Sections 33310-33312) is a short article entitled "Designation of Survey Area." It contains rules regarding how to designate a "survey area" — i.e., an area that "requires study to determine if a redevelopment project or projects within said area are feasible." Section 33312(a).

More specifically, a legislative body may designate a survey area by resolution. Section 33310. A legislative body may also give a planning commission or the members of a redevelopment agency authority to designate a survey area by resolution. *Id.* Anyone may make a written request for designation of a survey area or "areas for project study purposes," and may submit a proposed redevelopment plan for that area. Section 33311. A resolution designating a survey area must contain a description of the area's boundaries and a finding that the area requires study to determine if a redevelopment project within the area is feasible. Section 33312.

*Relevance After Transitional Period*

Designation of a survey area is part of the redevelopment process. Once redevelopment ceases and the "transitional period" has ended, no further survey areas will be designated.

That does not end the analysis, however, because numerous provisions refer to survey areas designated for redevelopment. In particular, the phrase "survey area" is used that way in the following provisions:

- Section 33020 ("Redevelopment" means "the planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation, or any combination of these, of all or part of a survey area, and ….").
- Section 33134 (within survey area or for purposes of redevelopment, agency may insure or provide for insurance of agency operations).
- Section 33135 (under specified circumstances "outside any survey area," redevelopment agency may provide relocation assistance to persons displaced by governmental action, and aid and assistance to property owners in connection with rehabilitation loans and grants).

- Section 33322 (planning commission may, and under certain circumstances must, select one or more project areas "comprised of all or part of any survey area").
- Section 33391 (within survey area or for purposes of redevelopment, agency may acquire real or personal property or any interest in such property, including acquisition of real property by eminent domain).
- Section 33400(a) (within survey area or for purposes of redevelopment, agency may insure any of agency's real or personal property).
- Section 33400(b) (within survey area or for purposes of redevelopment, agency may rent, maintain, operate, repair, and clear real property).
- Section 33430 (within survey area or for purposes of redevelopment, agency may "sell, lease, for a period not to exceed 99 years, exchange, subdivide, transfer, assign, pledge, encumber by mortgage, deed of trust, or otherwise, or otherwise dispose of any real or personal property or any interest in property").
- Section 33436 (redevelopment agency must include nondiscrimination clauses in "contracts entered into by the agency relating to the sale, transfer, or leasing of land or any interest therein acquired by the agency within any survey area or redevelopment project").
- Section 33442 (redevelopment agency "may sell, lease, grant, or donate real property owned or acquired by the agency in a survey area to a housing authority or to any public agency for public housing projects").
- Revenue and Taxation Code Section 3791.3 (Whenever property has been tax defaulted for specified period, state and other specified governmental entities may buy all or part of that property, but redevelopment agency may only buy tax-defaulted property located within designated survey area).

Each of these provisions involves redevelopment activities. Consequently, the concept of "survey area" is not likely to be important for any of these purposes after redevelopment has ceased and all related litigation has been resolved**. The staff's preliminary view is thus that "Article 2. Designation of Survey Area" will be obsolete once the transitional period has ended.**

We will be able to assess this with greater confidence after we have examined the remainder of the Community Redevelopment Law and determined whether all of its provisions referring to "survey areas" should be repealed. **The Commission should revisit this point at that time.**

In addition to the above-described provisions that refer to redevelopment survey areas generally, the staff found one provision that refers to a specific redevelopment survey area. Section 33492.116 conditionally gives the City of Tustin the option to undertake certain historic preservation duties relating to "the survey area created for redevelopment of the Tustin Marine Corps Air Station." Such duties could perhaps continue despite the end of redevelopment and any related litigation.

Consequently, it might still be necessary to refer to "the survey area created for redevelopment of the Tustin Marine Corps Air Station" after the transitional period. To facilitate such reference, it might be helpful to memorialize the boundaries of that survey area in a readily accessible source that will remain available after the transitional period. The staff will explore this idea more carefully when we examine Section 33492.116 later in this study. For present purposes, it is sufficient to observe that **Section 33492.116 does not appear to create any need to preserve the more general provisions in "Article 2. Designation of Survey Area."**

*Relevance During Transitional Period*

If "Article 2. Designation of Survey Area" is repealed in the Redevelopment Clean-Up Act drafted by the Commission, the proposed savings provision should be sufficient to preserve the effect of that article during the transitional period.

Current law does not appear to permit designation of a new survey area. See Sections 34164(c) (redevelopment agency shall not "[d]esignate a new survey area or modify, extend, or otherwise change the boundaries of an existing survey area"), 34173 (successor agency has all authority, rights, powers, duties, and obligations previously vested with redevelopment agency, "[e]xcept for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part").

To the extent that the rules regarding the designation process nonetheless remain relevant, the savings provision would preserve their effect despite their repeal:

> (b) The repeal or amendment of a provision of former law by the Redevelopment Clean-Up Act shall have *no effec*t, during the transitional period, *on the substance, construction, or application of former law* with regards to any redevelopment-related matter ….

(Emphasis added.)

Moreover, paragraph (b)(1) of the savings provision would *specifically* preserve not only the "authority, rights, powers, duties, and obligations of a successor agency," but also the "authority, rights, powers, duties, and obligations" of "any other person or entity who is granted or charged with authority, rights, powers, duties, and obligations relating to redevelopment." That language would encompass the legislative bodies, planning commissions, and interested persons mentioned in "Article 2. Designation of Survey Area."

Further, paragraph (b)(6) of the savings provision would *specifically* preserve the "validity of any redevelopment-related ordinance, regulation, plan, *or other legally operative document* promulgated by a former redevelopment agency, a successor agency, *or other entity*." (Emphasis added.) Although this paragraph does not expressly refer to a resolution promulgated by a legislative body, planning commission, or redevelopment agency, the language is broad enough to include such an instrument.

To eliminate any doubt on this point, the Commission could revise the paragraph to expressly refer to a resolution, as shown in underscore below:

> (6) The validity of any redevelopment-related ordinance, <u>resolution,</u> regulation, plan, or other legally operative document promulgated by a former redevelopment agency, a successor agency, or other entity.

The staff does not think this is necessary, but we do not see any downside to making this change. **Would the Commission like to revise paragraph (b)(6) of the savings provision as shown above?**

**Article 3. Selection of Project Area and Formulation of Preliminary Plans**

Article 3 (Sections 33320.1-33328.7) of Chapter 4 of the Community Redevelopment Law is entitled "Selection of Project Area and Formulation of Preliminary Plans." The provisions of Article 3 can be organized into the following groups, by subject matter:

(1) General provisions governing selection of a project area.
(2) Geographically-specific provisions governing selection of a project area.
(3) Provisions governing formulation of a preliminary plan.
(4) Provisions governing preparation of the base year assessment roll and related reports.

Each of these four subject matter groups will be analyzed separately, below.

**General Provisions Governing Selection of a Project Area**

Sections 33320.1, 33320.2, 33321, 33321.5, and 33326, as well as the first paragraph of Section 33322 and the first clause of Section 33323, contain general rules regarding selection of a "project area."

A project area may be "comprised of all or part of any survey area." Section 33322. With some exceptions, a project area is a "predominantly urbanized area of a community that is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and that is selected by the planning commission …." Section 33320.1(a). The term "predominantly urbanized" is defined. See Section 33320.1(b). There is also an explanation of what constitutes a developed parcel for purposes of determining whether an area is "predominantly urbanized." See Section 33320.1(c).

"Agricultural land and open-space land that is enforceably restricted shall not be included within a project area." Section 33321.5(a). If a parcel of land in agricultural use is larger than two acres but is not enforceably restricted, the parcel shall not be included in a project area unless a redevelopment agency makes a number of findings, each of which must be based on substantial evidence in the record. Section 33321.5(b).

The above-listed provisions do not contain any definition of "blight" or "blighted area;" those terms are defined elsewhere in the Community Redevelopment Law (see Sections 33030-33031). However, Section 33321 states that a project area "need not be restricted to buildings, improvements, or lands which are *detrimental or inimical to the public health, safety, or welfare,* but may consist of an area in which such conditions predominate and *injuriously affect* the entire area." (Emphasis added.) If a piece of real property is not detrimental to public health, safety, or welfare, it may be included in a project area only if it is necessary for effective redevelopment. *Id.*

"All noncontiguous areas of a project area shall be either blighted or necessary for effective redevelopment." Section 33320.2. Under specified circumstances, an unblighted, noncontiguous area "shall be *conclusively deemed* necessary for effective development …." *Id.* (emphasis added.) In a noncontiguous, unblighted area, a redevelopment agency may not exercise the power of eminent domain to acquire property, other than a vacant lot. *Id.*

The planning commission is to cooperate with the redevelopment agency in selecting project areas. Section 33323. The planning commission *may* select one or more such areas on its own motion or at the request of the redevelopment agency. Section 33322. The planning commission "*shall* select one or more project areas … at the direction of the legislative body, or upon the written petition of the owners in fee of the majority in area of a proposed project area, excluding publicly owned areas or areas dedicated to a public use." *Id.* (emphasis added).

*Relevance After Transitional Period*

Like designation of a survey area, selection of a "project area" is part of the redevelopment process. Once redevelopment ceases and the "transitional period" has ended, no further project areas will be selected for redevelopment.

Again, however, that does not end the analysis, because the Community Redevelopment Law (Sections 33000-33855) and the nearby redevelopment statutes we will be focusing on during this study (Sections 34000-34008, 34100-34196) are replete with references to "project areas." Most likely, those references pertain to the redevelopment process and will become obsolete once the transitional period ends. We will need to confirm as much as the Commission proceeds with this study.

In addition, numerous sections located elsewhere in the codes refer to redevelopment "project areas," including:

> Bus. & Prof. Code §§ 5273.5, 5442.11, 5498; Civ. Code §§ 1954.26(l), 1954.28(d); Gov't Code §§ 6531, 6532, 6546(s), 8180, 8181, 8182.5, 8183, 8184, 8186, 8190, 8191, 8193.1, 8193.2, 8194, 12363.3, 25213.4, 53373.3, 53395.4, 53398.4, 53586, 56375.3, 56425.5, 56429, 65583, 65584.3, 65863.10, 67679, 76219; Health & Safety Code §§ 17958.11, 25395.20, 37922(a)(3), (d)(5), 50508.5, 50696, 53545.13; Pub. Cont. Code §§ 20688.2, 20688.3; Pub. Res. Code § 5027.1; Rev. & Tax Code §§ 96.4, 96.6, 98.01, 100, 100.7; Rev. & Tax Code § 7280.5; Water Code §§ 31704, 71697.

The staff will need to review each of these references to redevelopment "project areas." Because these references are located outside the Community Redevelopment Law, there is a good possibility that some of them have significance beyond the context of redevelopment. Until we finish reviewing them, the Commission will not be able to effectively assess whether to retain any or all of the general provisions governing selection of a project area.

Further, the term "predominantly urbanized" appears in the Community Redevelopment Disaster Project Law (see Section 34002(a)(2)) and in several

places in the Community Redevelopment Law besides the article governing selection of a project area (see Sections 33030(b)(1), 33501(a), 33344.5(a), 33367(d)(12), 33492.3, 33492.40(a), 33501(a)). The staff will need to review each of these references as well, to confirm that they pertain to the redevelopment process and will become obsolete once the transitional period ends.

It would thus be premature to take a stance on whether to repeal the general provisions governing selection of a project area (Sections 33320.1, 33320.2, 33321, 33322 (1st ¶), 33323 (1st cl.), 33321.5, and 33326). The staff therefore recommends that the Commission **delay making any decision on that matter until later in this study, when we have the necessary information to evaluate the continuing utility of those provisions, if any.**

*Relevance During Transitional Period*

If the general provisions governing selection of a project area are repealed in the Redevelopment Clean-Up Act drafted by the Commission, the proposed savings provision should be sufficient to preserve the effect of those provisions during the transitional period.

Current law appears to preclude selection of a new project area. See Section 34164(b) (redevelopment agency shall not "[c]reate, designate, merge, expand, or otherwise change the boundaries of a project area"), 34173 (successor agency has all authority, rights, powers, duties, and obligations previously vested with redevelopment agency, "[e]xcept for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part"); but see Section 34180 (merging of project areas by successor agency requires approval of oversight board).

To the extent that the rules regarding the selection process nonetheless remain relevant, the savings provision would preserve their effect despite their repeal:

> (b) The repeal or amendment of a provision of former law by the Redevelopment Clean-Up Act shall have *no effec*t, during the transitional period, *on the substance, construction, or application of former law* with regards to any redevelopment-related matter ….

(Emphasis added.)

Moreover, paragraph (b)(1) of the savings provision would *specifically* preserve not only the "authority, rights, powers, duties, and obligations of a successor agency," but also the "authority, rights, powers, duties, and

obligations" of "any other person or entity who is granted or charged with authority, rights, powers, duties, and obligations relating to redevelopment." That language would encompass the planning commissions, owners in fee, and other persons that are mentioned in, or affected by, the general provisions governing selection of a project area.

Further, paragraph (b)(4) of the savings provision would *specifically* preserve "[a]ny rules of evidence or procedure governing a legal action brought by or against a former redevelopment agency or a successor agency." That language (particularly if modified as discussed in Memorandum 2012-14 to apply to all actions, not just an action "brought by or against a former redevelopment agency or a successor agency") would effectively preserve the rule that under specified circumstances, an unblighted, noncontiguous area "shall be *conclusively deemed* necessary for effective development …." Section 33320.2 (emphasis added).

Finally, as discussed in connection with "Article 1. Community Prerequisites," the savings provision includes language *specifically intended* to ensure that the Commission's clean-up legislation would have no impact on any litigation concerning redevelopment. See subdivisions (b), (c)(3), and (c)(4) of the proposed savings provision, as presented in Memorandum 2012-11, pp. 9-10.

The current draft of the savings provision thus seems to be sufficient to preserve the effect of the general provisions governing selection of a project area (Sections 33320.1, 33320.2, 33321, 33322 (1st ¶), 33323 (1st cl.), 33321.5, and 33326). Based on the research we have done so far, **no adjustment of the savings provision appears necessary to address this context.**

**Geographically-Specific Provisions Governing Selection of a Project Area**

Sections 33320.3, 33320.4, and 33320.8 contain special, geographically-specific rules regarding selection of a "project area."

Section 33320.3 provides that certain property "shall be *conclusively deemed* necessary for effective redevelopment and may be included within a noncontiguous project area by the redevelopment agency in the City of Victorville." (Emphasis added.) If certain conditions are met, Section 33320.4 establishes a similar conclusive presumption with regard to certain property near the City of Sanger.

Along the same lines, Section 33320.8 exempts certain property in San Bernardino and Riverside Counties from Section 33321.5(b), which says that if a parcel of land larger than two acres is in agricultural use and is not enforceably

restricted, it shall not be included in a "project area" unless the redevelopment agency makes specified findings based on substantial evidence.

*Relevance After Transitional Period*

The three provisions described above relate to the redevelopment process and any associated litigation in specified geographic areas. Once all redevelopment in those areas is completed and all potential lawsuits relating to such redevelopment are resolved or barred by the statute of limitations, these provisions would seem to be obsolete.

However, each of the provisions includes a detailed description of a particular piece of real property. It is possible that the description has some significance beyond the context of redevelopment, and thus may be worth preserving in some manner. A search of the codes for cross-references to these sections did not reveal anything along these lines. **Unless the Commission otherwise directs, the staff nonetheless plans to examine these and other geographically-specific provisions in a separate memorandum later in this study.** That would provide an opportunity to carefully explore whether there is a need for special treatment of such provisions, either collectively or on a more individualized basis.

*Relevance During Transitional Period*

If Sections 33320.3, 33320.4, and 33320.8 are repealed in the Redevelopment Clean-Up Act drafted by the Commission, the proposed savings provision should be sufficient to preserve the effect of those provisions during the transitional period.

The savings provision expressly states:

> (b) The repeal or amendment of a provision of former law by the Redevelopment Clean-Up Act shall have *no effec*t, during the transitional period, *on the substance, construction, or application of former law* with regards to any redevelopment-related matter ….

(Emphasis added.) That language appears to be broad enough to preserve the effect of all three geographically-specific rules governing selection of a project area.

Further, paragraph (b)(4) of the savings provision would *specifically* preserve "[a]ny rules of evidence or procedure governing a legal action brought by or against a former redevelopment agency or a successor agency." That paragraph (particularly if modified as discussed in Memorandum 2012-14 to apply to all

actions, not just an action "brought by or against a former redevelopment agency or a successor agency") would serve to bolster the protection for the conclusive presumptions established by Sections 33320.3 and 33320.4.

The current draft of the savings provision thus seems to be sufficient to preserve the effect of the geographically-specific provisions governing selection of a project area (Sections 33320.3, 33320.4, and 33320.8). Based on the research we have done so far, **no adjustment of the savings provision appears necessary to address this context.**

**Provisions Governing Formulation of a Preliminary Plan**

Sections 33324 and 33325, as well as the second paragraph of Section 33322 and the second clause of Section 33323, relate to formulation of a preliminary plan for redevelopment.

Under Section 33322, the local planning commission is responsible for formulating such a plan "for the redevelopment of each selected project area." The planning commission and redevelopment agency are required to cooperate in the preparation of the preliminary plan. Section 33323. The plan need not be detailed, but must:

- Describe the boundaries of the project area.
- Contain a general statement of the land uses, layout of principal streets, population densities and building intensities, and standards proposed as the basis for the redevelopment of the project area.
- Show how the purposes of the Community Redevelopment Law would be attained by redevelopment.
- Show that the proposed redevelopment is consistent with the community's general plan.
- Describe, in general terms, the impact of the project upon the area's residents and upon the surrounding neighborhood.

Section 33324. The planning commission shall submit the preliminary plan to the redevelopment agency. Section 33325.

*Relevance After Transitional Period*

Formulation of a preliminary plan pursuant to the above-described provisions is part of the redevelopment process. Once redevelopment ceases and the "transitional period" has ended, no more such preliminary plans will be formulated.

Consequently, it seems unlikely that there will be any further need to refer to the rules governing formulation of such a preliminary plan. As best we can tell from a Lexis search of the codes, those rules are not being used for any purpose other than redevelopment. It follows that once the transitional period has ended, **those rules (Sections 33322 (2d ¶), 33323 (2d cl.), 33324, and 33325) will be obsolete and should be repealed.**

*Relevance During Transitional Period*

If the provisions governing formulation of a preliminary plan are repealed in the Redevelopment Clean-Up Act drafted by the Commission, the proposed savings provision should be sufficient to preserve the effect of those provisions during the transitional period.

Current law appears to preclude formulation or revision of a preliminary plan for redevelopment. See Sections 34164(e) (redevelopment agency shall not "[p]repare, formulate, amend, or otherwise modify a preliminary plan or cause the preparation, formulation, modification, or amendment of a preliminary plan"), 34173 (successor agency has all authority, rights, powers, duties, and obligations previously vested with redevelopment agency, "[e]xcept for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part").

To the extent that the rules regarding formulation and revision of preliminary plans nonetheless remain relevant, the savings provision would preserve their effect despite their repeal:

> (b) The repeal or amendment of a provision of former law by the Redevelopment Clean-Up Act shall have *no effec*t, during the transitional period, *on the substance, construction, or application of former law* with regards to any redevelopment-related matter ….

(Emphasis added.)

Moreover, paragraph (b)(1) of the savings provision would *specifically* preserve not only the "authority, rights, powers, duties, and obligations of a successor agency," but also the "authority, rights, powers, duties, and obligations" of "any other person or entity who is granted or charged with authority, rights, powers, duties, and obligations relating to redevelopment." That language would encompass the planning commissions that are mentioned in the provisions governing formulation of a preliminary plan.

In addition, paragraph (b)(6) of the savings provision would *specifically* preserve the "validity of any … plan, or other legally operative document promulgated by a former redevelopment agency, a successor agency, or other entity." That language would help ensure that the repeal of the preliminary plan provisions would not have any effect on the validity of a preliminary plan that was approved under former law.

Finally, as discussed in connection with "Article 1. Community Prerequisites," the savings provision includes language *specifically intended* to ensure that the Commission's clean-up legislation would have no impact on any litigation concerning redevelopment. See subdivisions (b), (c)(3), and (c)(4) of the proposed savings provision, as presented in Memorandum 2012-11, pp. 9-10.

The current draft of the savings provision thus seems to be sufficient to preserve the effect of the general provisions governing formulation of a preliminary plan (Sections 33322 (2d ¶), 33323 (2d cl.), 33324, and 33325). Based on the research we have done so far, **no adjustment of the savings provision appears necessary to address this context.**

**Provisions Governing Preparation of the Base Year Assessment Roll and Related Reports**

Sections 33327, 33328, 33328.1, 33328.3, 33328.4, 33328.5, and 33328.7, relate to preparation of the "base year assessment roll" and related reports.

After receiving a preliminary plan from the local planning commission, a redevelopment agency is required to transmit the following items to the State Board of Equalization, the county auditor and county assessor (or any officer performing the functions of the county auditor or county assessor), and the legislative or governing bodies of local agencies that receive a portion of property taxes:

(1) A description of the boundaries of the project area.
(2) A statement that a plan for redevelopment of the project area is being prepared.
(3) A map of the boundaries of the project area.

Section 33327. The State Board of Equalization is to specify the format and similar details of the required documents. *Id.* If the transmitted information fails to meet those requirements, the State Board of Equalization or tax official entitled to receive those documents must notify the redevelopment agency of the

problem within ten days, or it shall be conclusively presumed that the transmitted information is sufficient. Section 33328; see also Section 33328.3.

At the same time as it transmits the above information, the redevelopment agency shall advise the same officials and agencies of the last equalized assessment roll (i.e., the latest listing of properties used in collecting property taxes) that it proposes to use for allocation of taxes in compliance with Sections 33670 and 33670.5, which establish the tax increment financing scheme used for redevelopment. See Section 33328. That assessment roll "shall be known and referred to as the base year assessment roll." *Id.*

After receiving that information, the county officials charged with allocating taxes pursuant to Sections 33670 and 33670.5 must prepare a report with specified information about assessed valuations, tax revenue, and the like, and deliver that report to the redevelopment agency and each of the taxing agencies within a specified time period. Section 33328. The State Board of Equalization and officials of the affected taxing agencies must provide those county officials with the information necessary for preparation of that report. *Id.* If the boundaries of a project area change, a supplemental report is necessary. See Section 33328.3. Likewise, if a redevelopment agency proposes to use an equalized assessment roll for a different year than originally contemplated, supplemental reports are required. See Section 33328.5.

In addition to the report they prepare for the redevelopment agency and each of the taxing agencies, the same county officials must prepare a report for the Department of Finance. See Section 33328.1. That report must contain some of the same information described above, but also some other information (e.g., population projections for the project area and a projection of any change in the need for school facilities within the project area). *Id.*

The State Board of Equalization is to charge fees for processing the maps and other information provided to it. Section 33328.4. The redevelopment agency must pay those fees, and must also reimburse any costs incurred by a county, school district, county office of education, or community college district in preparing the reports described above. Sections 33328.4, 33328.7.

Before publishing notice of a legislative body's public hearing on a redevelopment plan, the redevelopment agency "shall consult with each taxing agency which levies taxes, or for which taxes are levied, on property in the project area with respect to the plan and to the allocation of taxes pursuant to Section 33670." Section 33328.

*Relevance After Transitional Period*

Establishment of the base year assessment roll and preparation of the related reports is part of the redevelopment process. Those activities will stop once redevelopment ceases. Consequently, the above-described material relating to establishment of the base year assessment roll and preparation of related reports may be obsolete when the "transitional period" ends.

To be certain that the material is obsolete, however, the Commission will also need to assess whether the general concept of base year assessment roll, or the base year assessment roll for any particular redevelopment project, or any of the reports relating to the base year assessment roll, will have ongoing importance after the "transitional period" ends. Notably, a search of the codes revealed that the term "base year assessment roll" is only used in four redevelopment statutes (Sections 33328, 33344.6, 33670.8, and 34006). But the codes contain many cross-references to Section 33670, the key provision on tax increment financing.

If the general concept of base year assessment roll, specific implementations of that concept, and reports relating to the establishment of the base year assessment roll will have no ongoing importance after the "transitional period" ends, then the above-described material on establishment of the base year assessment roll and preparation of the related reports should be repealed. But if the situation is otherwise, then it might be necessary to retain at least some of that material.

It would thus be premature to take a stance on whether to repeal the material on establishment of the base year assessment roll and preparation of the related reports (Sections 33327, 33328, 33328.1, 33328.3, 33328.4, 33328.5, and 33328.7). The staff therefore recommends that the Commission **delay making any decision on that matter until later in this study, when we have the necessary information to evaluate the continuing utility of those provisions, if any.**

*Relevance During Transitional Period*

If the provisions on establishment of the base year assessment roll and preparation of related reports are repealed in the Redevelopment Clean-Up Act drafted by the Commission, the proposed savings provision should be sufficient to preserve the effect of those provisions during the transitional period.

The savings provision contains a broad assurance that "[t]he repeal or amendment of a provision of former law by the Redevelopment Clean-Up Act shall have *no effec*t, during the transitional period, *on the substance, construction, or*

*application of former law* with regards to any redevelopment-related matter ….” (Emphasis added.) That language would seem to encompass, and preserve the effect of, all of the statutory material on establishment of the base year assessment roll and preparation of the related reports.

Further, paragraph (b)(1) of the savings provision would *specifically* preserve not only the “authority, rights, powers, duties, and obligations of a successor agency,” but also the “authority, rights, powers, duties, and obligations” of “any other person or entity who is granted or charged with authority, rights, powers, duties, and obligations relating to redevelopment.” That paragraph would provide additional assurance that the requirements imposed on various entities relating to preparation of the base year assessment roll and related reports (the rights and duties assigned to planning commissions, the State Board of Equalization, the Department of Finance, county auditors, county assessors, other tax officials, legislative bodies, local agencies, school districts, and others) would remain in effect during the transitional period, notwithstanding the repeal of the statutory provisions on establishment of the base year assessment roll and preparation of related reports.

As previously discussed, the savings provision also contains language *specifically intended* to ensure that the Commission’s clean-up legislation would have no impact on any litigation concerning redevelopment. See subdivisions (b), (c)(3), and (c)(4) of the proposed savings provision, as presented in Memorandum 2012-11, pp. 9-10. That protection would plainly extend to any litigation concerning establishment of the base year assessment roll and preparation of the related reports.

Supplementing that protection, paragraph (b)(4) of the savings provision would *specifically* preserve “[a]ny rules of evidence or procedure governing a legal action brought by or against a former redevelopment agency or a successor agency.” That language (particularly if modified as discussed in Memorandum 2012-14 to apply to all actions, not just an action “brought by or against a former redevelopment agency or a successor agency”) would effectively preserve the conclusive presumptions in Sections 33328 and 33328.3 regarding sufficiency of documents provided to the State Board of Equalization and tax officials in connection with establishment of the base year assessment roll.

In addition, paragraph (b)(2) of the savings provision would *specifically* preserve the “allocation of revenue pursuant to Part 1.85 (commencing with Section 34170),” which relates to dissolution of redevelopment agencies and

designation of successor agencies. The concept of "base year assessment roll" underlies aspects of that revenue allocation scheme. Paragraph (b)(2) would thus underscore that repealing the provisions on establishment of the base year assessment roll and preparation of the related reports would have no impact on redevelopment activities during the transitional period.

But the savings provision could perhaps be strengthened by explicitly stating the Redevelopment Clean-Up Act shall have no effect on any determination of a base year assessment roll:

> (b) The repeal or amendment of a provision of former law by the Redevelopment Clean-Up Act shall have no effect, during the transitional period, on the substance, construction, or application of former law with regards to any redevelopment-related matter, including without limitation, any of the following redevelopment-related matters:
>
> ….
>
> (7) Any determination of a base year assessment roll.

**Would the Commission like to make this change?**

Finally, paragraph (b)(6) of the savings provision would *specifically* preserve the "validity of any … plan, or other legally operative document promulgated by a former redevelopment agency, a successor agency, or other entity." That language would help to ensure that the maps, boundary descriptions, reports, and other documents referenced in the statutory provisions on preparation of the base year assessment roll would remain effective during the transitional period, notwithstanding the repeal of those statutory provisions.

Again, however, the savings provision could perhaps be strengthened by including a more explicit reference, as shown in underscore below:

> (6) The validity of any redevelopment-related ordinance, regulation, plan, report, map, boundary description, or other legally operative document promulgated by a former redevelopment agency, a successor agency, or other entity.

**Would the Commission like to make this change?**

In sum, the proposed savings provision — in its current form, or as modified to incorporate either or both of the changes discussed above — seems to be sufficient to preserve the effect of the provisions on establishment of the base year assessment roll and preparation of the related reports (Sections 33327, 33328, 33328.1, 33328.3, 33328.4, 33328.5, and 33328.7) during the transitional

period. Based on the research we have done so far, **no other adjustments of the savings provision appear warranted to address this context.**

Respectfully submitted,

Barbara Gaal
Chief Deputy Counsel

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# HEALTH AND SAFETY CODE

## DIVISION 24. COMMUNITY DEVELOPMENT AND HOUSING

## PART 1. COMMUNITY REDEVELOPMENT LAW

### CHAPTER 4. REDEVELOPMENT PROCEDURES AND ACTIVITIES

### Article 1. Community Prerequisites

**§ 33300. Prerequisites to designation of area for redevelopment**

33300. Before any area is designated for redevelopment, the community authorized to undertake such development shall comply with the requirements of this article.

**§ 33301. Planning commission**

33301. The community shall have a planning agency established pursuant to law or charter.

**§ 33302. General plan**

33302. The community shall have a general plan which complies with Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code, and which includes, but is not limited to, a housing element that substantially complies with state law.

### Article 2. Designation of Survey Area

**§ 33310. Designation of survey area by legislative body or by delegation of such authority**

33310. Survey areas may be designated by resolution of the legislative body, or the legislative body may by resolution authorize the designation of survey areas by resolution of the planning commission or by resolution of the members of the agency.

**§ 33311. Private request for designation of survey area or area for project study purposes**

33311. Any person, group, association or corporation may in writing, request the legislative body (or the planning commission or the agency if they are authorized by the legislative body to designate survey areas) to designate a survey area or areas for project study purposes, and may submit with their request plans showing the proposed redevelopment of such areas or any part or parts thereof.

**§ 33312. Contents of resolution designating survey area**

33312. The resolution designating a survey area or areas shall contain the following:

(a) A finding that the area requires study to determine if a redevelopment project or projects within said area are feasible;

(b) A description of the boundaries of the area designated.

## Article 3. Selection of Project Area and Formulation of Preliminary Plans

**§ 33320.1. "Project area"**

33320.1. (a) "Project area" means, except as provided in Section 33320.2, 33320.3, 33320.4, or 33492.3, a predominantly urbanized area of a community that is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and that is selected by the planning commission pursuant to Section 33322.

(b) As used in this section, "predominantly urbanized" means that not less than 80 percent of the land in the project area is either of the following:

(1) Has been or is developed for urban uses.

(2) Is an integral part of one or more areas developed for urban uses that are surrounded or substantially surrounded by parcels that have been or are developed for urban uses. Parcels separated by only an improved right-of-way shall be deemed adjacent for the purpose of this subdivision. Parcels that are not blighted shall not be included in the project area for the purpose of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for their inclusion.

(c) For the purposes of this section, a parcel of property as shown on the official maps of the county assessor is developed if that parcel is developed in a manner that is consistent with zoning standards or is otherwise permitted under law.

(d) The requirement that a project be predominantly urbanized shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 1984, or to an area that is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 1984.

**§ 33320.2. Contiguous and noncontiguous areas**

33320.2. (a) The area included within a project and a project area may be either contiguous or noncontiguous. All noncontiguous areas of a project area shall be either blighted or necessary for effective redevelopment. An unblighted, noncontiguous area shall be conclusively deemed necessary for effective redevelopment if that area is being used predominantly for:

(1) The relocation of owners or tenants from other noncontiguous areas in the same project area or from other project areas in the community.

(2) The construction and rehabilitation of low- or moderate-income housing.

(b) An unblighted, noncontiguous area shall be deemed not necessary for effective redevelopment if that area is included for the purpose of obtaining the allocation of taxes from such area pursuant to Section 33670 without other substantial justification for its inclusion.

(c) The redevelopment agency shall not use the power of eminent domain for acquisition of property, other than vacant land, in noncontiguous, unblighted areas.

**§ 33320.3. Areas necessary for effective redevelopment in City of Victorville**

33320.3. (a) The area included within a project and a project area may be either contiguous or noncontiguous. All noncontiguous areas of a project area shall be either blighted or necessary for effective redevelopment. An unblighted, noncontiguous area within the City of Victorville which is a part of a freeway interchange project that is included in the State Transportation Improvement Program, as adopted by the California Transportation Commission in June 1984, and an unblighted area contiguous to that freeway interchange project east of Armagosa, north of Seneca Road, west of Seventh Street, and South of Plaza Drive and Mohave Drive, excluding any subdivided and developed area, shall be conclusively deemed necessary for effective redevelopment and may be included within a noncontiguous project area by the redevelopment agency in the City of Victorville.

(b) The redevelopment agency shall not use the power of eminent domain for acquisition of property, other than vacant land, in noncontiguous, unblighted areas.

(c) This section shall only apply to a redevelopment project area and the redevelopment agency within the City of Victorville.

**§ 33320.4. Territory necessary for effective redevelopment near City of Sanger under specified circumstances**

33320.4. (a) The unblighted territory that is described in paragraphs (1) and (2) is contiguous to an existing redevelopment project area within the City of Sanger, California. If all of that unblighted territory is annexed to the City of Sanger, the planning agency within the City of Sanger may, with the approval of the redevelopment agency, include that territory in a proposed project area, or the redevelopment agency may amend the redevelopment plan to include that territory within an existing contiguous project area, if the planning agency or the redevelopment agency, as the case may be, determines that the inclusion of that territory is necessary for effective redevelopment of the project area. If either, or both, of those determinations are made, the territory shall be conclusively presumed necessary for effective redevelopment within the proposed or existing project area. Any actions taken by the planning agency or redevelopment agency in accordance with this section shall comply with all of the other requirements of this part.

(1) All that portion of Fresno County, California, within the City of Sanger in Sections 26 and 25, Township 14 South, Range 22 East, Mount Diablo Base and

Meridian, according to the United States Government Township Plat thereof, described as follows:

Beginning at the southwest corner of the northwest quarter of Section 26; thence along the existing city limits line of Sanger as follows, N. 89 47´ E., a distance of 2638.53 feet to the southeast corner of the northwest quarter of Section 26; thence N. 0 03´ W., along the west line of the northeast quarter of that Section, a distance of 345.52 feet to the northerly right-of-way line of the Garfield Ditch; thence northeasterly along northerly right-of-way line, a distance of 913.00 feet, a little more or less, to a point on the westerly right-of-way line of the Centerville and Kingsburg Canal; thence along the easterly right-of-way line of the Centerville and Kingsburg Canal as follows: N. 09 52´28″ E., 708.50 feet; N. 09 26´ 40″ E., 297.07 feet; N. 07 14´16″ E., 549.23 feet; and N. 09 15´10″ E., a distance of 539.47 feet to a point on a line 30. 00 feet south of the north line of the northeast quarter of Section 26; thence leaving the westerly right-of-way line, N.89 43´ E., along that line 30.00 feet south of and parallel with the north line of the northeast quarter of Section 26 and the easterly prolongation thereof, a distance of 1860.41 feet; thence S. 0 14´ E., 1151.07 feet; thence S. 73 01´ W., 357.58 feet; thence S. 55 46´ W., 985.00 feet; thence S. 40 46´ W., 218.00 feet; thence S. 24 31´ W., 364. 00 feet; thence N. 75 44´ W., 312.87 feet to a point on the west line of the southeast quarter of the northeast quarter of Section 26; thence S. 0 17´12″ E., along said west line, 413.31 feet to the southwest corner thereof; thence S. 0 16´28″ E., along the west line of the northeast quarter of the southeast quarter of Section 26, 1332.38 feet to the southwest corner thereof; thence leaving the existing city limits line of Sanger, N. 89 06´46″ W., along the north line of the south half of the southeast quarter of Section 26, 592.10 feet to the northeast corner of that parcel of land conveyed to Archie Mekealian and Verlene Mekealian by deed dated February 23, 1944, and recorded in Book 2157 at Page 119, Fresno County records, with the corner being 742.00 feet east of the northwest corner of the south half of the southeast quarter of Section 26; thence S. 4 36´52″ W., along the east line to the parcel, 1330.31 feet to the southeast corner thereof and to a point on the south line of the southeast quarter of Section 26; thence N. 88 44´19″ W., along the south line, 619.00 feet, more or less to the southwest corner of the southeast quarter of Section 26; thence S. 89 51´20″ W., along the south line of the southwest quarter of Section 26, 2639.90 feet to the southwest corner thereof; thence north, along the west line of the southwest quarter of Section 26, 2643.60 feet to the northwest corner thereof and the point of beginning. This territory contains a little more or less than 316.58 acres.

(2) All that portion of Fresno County, California, within the City of Sanger, in the northeast quarter of Section 15 in Township 14 South, Range 22 East, Mount Diablo Base and Meridian, according to the United States Government Township Plat thereof, described as follows:

Commencing at the northeast corner of the northeast quarter of the northeast quarter of Section 15, thence southerly along the east line of the northeast quarter of Section 15 992.05 feet to the existing city limits line of Sanger, then continuing south along the east line of the northeast quarter of Section 15 475.01 feet, that being contiguous with the existing city limit of Sanger, for a total of 1467.06 feet, thence westerly, along a line 1180.15 feet 15, 880.90 feet, more or less to the easterly right-of-way line of the Southern Pacific Railroad Company's right-of-way; thence leaving the existing city limits line of Sanger, northwesterly, along the easterly right-of-way line of the railroad as the same is shown on the Map of Mountain View Addition to Sanger, recorded February 18, 1891, in Book 4 of Plats, Page 66, Fresno County Records, to the point of intersection with the north line of the northeast quarter of Section 15; thence easterly along the north line, 2191.00 feet to the point of commencement. This territory contains a little more or less than 50.13 acres.

(b) The conclusive presumption that the unblighted territory described in subdivision (a) is necessary for effective redevelopment applies only to territory within the City of Sanger.

**§ 33320.8. Exempt territory in Riverside and San Bernardino Counties**

33320.8. (a) The territory that is described in subdivision (b) shall not be subject to the requirements of subdivision (b) of Section 33321.5.

(b) All lands not enforceably restricted within the Counties of Riverside and San Bernardino, within the spheres of influence of the Cities of Chino and Ontario as of January 1, 1996, according to the United States Government Township Plat thereof, described as follows:

(1) That portion of Township 2 South, Range 7 West, San Bernardino Meridian, in the County of San Bernardino, State of California, described as follows:

Beginning at the center line intersection of Euclid Avenue and Riverside Drive, said intersection being on the existing city limits of Ontario; thence east along said city limits line and continuing along said line, following all of its various courses to the intersection of Riverside Drive with the San Bernardino County line; thence leaving said city limits line south and southwesterly along said county line to the north line of Section 27, said Township 2 South, Range 7 West; thence west along said north line, being also the center line of Remington Avenue, to the center line of Carpenter Avenue; thence north along said center line to the center line of Merrill Avenue; thence west along said center line to the east line of Grove Avenue; thence north along said east line to the north line of Merrill Avenue; thence west along said north line and its prolongation to the center line of Euclid Avenue; thence north along said center line to the Point of Beginning.

(2) Those portions of Townships 2 and 3 South, Ranges 7 and 8 West, San Bernardino Meridian, in the County of San Bernardino, State of California, described as follows:

Beginning at the intersection of the center line of Merrill Avenue with the east line of Grove Avenue; thence east along said center line of Merrill Avenue to the center line of Carpenter Avenue; thence south along said center line to the north line of Government Lot 1 of Section 27, said Township 2 South, Range 7 West, said point being also on the center line of Remington Avenue; thence east along said center line to the San Bernardino County line; thence southwesterly, southerly and westerly along said county line to the center line of State Highway 71 being also on the existing city limits line of Chino Hills; thence northwesterly along said center line and city limits line to the southwesterly prolongation of the center line of Pine Avenue; thence easterly along said prolongation and center line to the center line of Chino Creek; thence southeasterly along said center line to the west line of Section 6, said Township 3 South, Range 7 West; thence north along said west line and the west line of Section 31, said Township 2 South, Range 7 West, to the center line of Pine Avenue; thence westerly along said center line to the center line of El Prado Road, formerly Central Avenue; thence northwesterly along said center line to the center line of Kimball Avenue, said point being on the existing city limits of Chino; thence east along said city limits line and continuing along said city limits, following all of its various courses to the center line intersection of Kimball Avenue and vacated Campus Avenue; thence leaving said city limits line east along said center line of Kimball Avenue to the center line of Grove Avenue; thence north along said center line to the center line of Remington Avenue, vacated; thence east along said vacated center line to the east line of Grove Avenue; thence north along said last line to the Point of Beginning.

(3) Those portions of Sections 6, 7, 18, 19, 30, and 31, Township 2 South, Range 6 West, San Bernardino Meridian; Sections 23, 24, 25, 26, 27, 34, 35, and 36, Township 2 South, Range 7 West, San Bernardino Meridian; and Sections 2, 3, and 10, Township 3 South, Range 7 West, San Bernardino Meridian, within the unincorporated area of the County of Riverside.

**§ 33321. Conditions within project area**

33321. A project area need not be restricted to buildings, improvements, or lands which are detrimental or inimical to the public health, safety, or welfare, but may consist of an area in which such conditions predominate and injuriously affect the entire area. A project area may include lands, buildings, or improvements which are not detrimental to the public health, safety or welfare, but whose inclusion is found necessary for the effective redevelopment of the area of which they are a part. Each such area included under this section shall be necessary for effective redevelopment and shall not be included for the purpose of obtaining the allocation of tax increment revenue from such area pursuant to Section 33670 without other substantial justification for its inclusion.

**§ 33321.5. Agricultural land and open-space land**

33321.5. (a) Agricultural land and open-space land that is enforceably restricted shall not be included within a project area.

(b) A parcel of land that is larger than two acres and is in agricultural use, but that is not enforceably restricted, shall not be included within a project area unless the agency makes each of the following findings, based upon substantial evidence in the record:

(1) The inclusion of the land in the project area is consistent with the purposes of this part.

(2) The inclusion of the land in the project area will not cause the removal of adjacent land, designated for agricultural use in the community's general plan, from agricultural use.

(3) The inclusion of the land within the project area is consistent with the community's general plan.

(4) The inclusion of the land in the project area will result in a more contiguous pattern of development.

(5) There is no proximate land that is not in agricultural use, that is both available and suitable for inclusion within the project area, and is not already proposed to be within the project area.

(c) As used in this section the following definitions apply:

(1) "Agricultural use" has the same meaning as that term is defined in subdivision (b) of Section 51201 of the Government Code.

(2) "Enforceably restricted" has the same meaning as that term is defined in Sections 422 and 422.5 of the Revenue and Taxation Code.

(3) "Suitable" has the same meaning as that term is defined in subdivision (c) of Section 51282 of the Government Code.

(d) The provisions of subdivision (b) shall not apply to the territory described in Section 33320.8.

**§ 33322. Selection of project areas and formulation of preliminary plan**

33322. The planning commission may select one or more project areas comprised of all or part of any survey area, on its own motion, or at the request of the agency. The planning commission shall select one or more project areas comprised of all or part of any survey area, at the direction of the legislative body, or upon the written petition of the owners in fee of the majority in area of a proposed project area, excluding publicly owned areas or areas dedicated to a public use.

The planning commission shall formulate a preliminary plan for the redevelopment of each selected project area.

**§ 33323. Cooperation of agency and planning commission**

33323. The agency and planning commission shall cooperate in the selection of project areas and in the preparation of the preliminary plan.

**§ 33324. Contents of preliminary plan**

33324. A preliminary plan need not be detailed and is sufficient if it:

(a) Describes the boundaries of the project area.

(b) Contains a general statement of the land uses, layout of principal streets, population densities and building intensities, and standards proposed as the basis for the redevelopment of the project area.

(c) Shows how the purposes of this part would be attained by redevelopment.

(d) Shows that the proposed redevelopment is consistent with the community's general plan.

(e) Describes, generally, the impact of the project upon the area's residents and upon the surrounding neighborhood.

**§ 33325. Submission of preliminary plan to agency**

33325. The planning commission shall submit the preliminary plan for each project area to the agency.

**§ 33326. Change of boundaries of project area**

33326. Prior to publication of notice of the agency public hearing, the planning commission may change the boundaries of a project area with the approval of the agency.

**§ 33327. Transmission of boundary statement and map to tax officials**

33327. After receipt of any preliminary redevelopment plan pursuant to Section 33325, the agency shall transmit to the county auditor and county assessor of the county in which the proposed project is located, or to the officer or officers performing the functions of the auditor or assessor for any taxing agencies which, in levying or collecting its taxes, do not use the county assessment roll or do not collect its taxes through the county, to the legislative or governing bodies of local agencies which receive a portion of the property tax levied pursuant to Part 0.5 (commencing with Section 50) of the Revenue and Taxation Code and to the State Board of Equalization:

(a) A description of the boundaries of the project area.

(b) A statement that a plan for the redevelopment of the area is being prepared.

(c) A map indicating the boundaries of the project area.

In addition, the agency may include a listing, by tax rate area, of all parcels within the boundaries of the project area and the value used for each parcel on the secured property tax roll.

Thereafter, if the boundaries of the proposed project are changed, the agency shall notify the taxing officials and the State Board of Equalization within 30 days by transmitting a description and map indicating each boundary change made. The State Board of Equalization shall prescribe the format of the description of boundaries and statements, and the form, size, contents, and number of copies of the map required to be transmitted pursuant to this section.

**§ 33328. Base year assessment roll and report of county officials responsible for allocating taxes**

33328. When it transmits the map of the project area to the county officials, taxing agencies, and the State Board of Equalization pursuant to Section 33327, the redevelopment agency shall also advise those officials and agencies of the last equalized assessment roll it proposes to use for the allocation of taxes that will comply with Sections 33670 and 33670.5. That roll shall be known and referred to as the base year assessment roll. The county officials charged with the responsibility of allocating taxes under Sections 33670 and 33670.5 shall prepare and deliver to the redevelopment agency and each of the taxing agencies, a report which shall include all of the following:

(a) The total assessed valuation of all taxable property within the project area as shown on the base year assessment roll.

(b) The identifications of each taxing agency levying taxes in the project area.

(c) The amount of tax revenue to be derived by each taxing agency from the base year assessment roll from the project area, including state subventions for homeowners, business inventory, and similar subventions.

(d) For each taxing agency, its total ad valorem tax revenues from all property within its boundaries, whether inside or outside the project area.

(e) The estimated first year taxes available to the redevelopment agency, if any, based upon information submitted by the redevelopment agency, broken down by taxing agencies.

(f) The assessed valuation of the project area for the preceding year, or, if requested by the redevelopment agency, for the preceding five years, except for state assessed property on the board roll. However, in preparing this information, the requirements of Section 33670.5 shall be observed. The assessed value shall be reported by block if the property is divided by blocks, or by any other geographical area as may be agreed upon by the agency and county officials.

The report shall be prepared and delivered to the redevelopment agency and each of the taxing agencies within 60 days of the date of filing by the redevelopment agency with the State Board of Equalization or as otherwise agreed upon by the agency and the State Board of Equalization, unless the redevelopment agency requests the assessed valuation for the preceding five years, in which case the report shall be prepared and delivered within 90 days. If the proposed base year assessment roll has not yet been equalized at the time of the receipt of that advice, then the report shall be prepared and delivered within 60 days, or other period, otherwise agreed upon, by the agency and the State Board of Equalization, from the date set forth in Section 2052 of the Revenue and Taxation Code, unless the agency requests the assessed valuation for the preceding five years, in which case, the report shall be prepared and delivered within 90 days.

If the filing does not comply with the requirements of Section 33327, the State Board of Equalization or the official of the taxing agency entitled to receive those documents shall notify the filing agency within 10 days, stating the manner in

which the filing of documents does not comply with this section. If no notice is given it shall be conclusively presumed that the agency has complied with the provisions of this section.

If the report is not received within the time prescribed by this section, the redevelopment agency may proceed with the adoption of the redevelopment plan. The county officials may transmit a partial report, and any final report or additional information, if received by the agency prior to the close of the public hearing on the redevelopment plan, shall become part of the record of the public hearing.

The State Board of Equalization and officials of all taxing agencies shall provide the county officials preparing the report with all information necessary for its preparation. All data and information upon which the report is based shall be available to the agency to the extent permitted by law.

Prior to the publication of notice of the legislative body's public hearing on the plan, the agency shall consult with each taxing agency which levies taxes, or for which taxes are levied, on property in the project area with respect to the plan and to the allocation of taxes pursuant to Section 33670.

**§ 33328.1. Reports to Department of Finance**

33328.1. (a) When the county officials charged with the responsibility of allocating taxes pursuant Sections 33670 and 33670.5 deliver the report required pursuant to Section 33328, they shall also prepare and deliver to the Department of Finance, in the form and manner prescribed by the department, a report that includes all of the following:

(1) The information specified in subdivisions (a), (b), and (c) of Section 33328.

(2) A projection of the total amount of tax revenues that may be allocated pursuant to Sections 33670 and 33670.5 for the duration of the project area.

(3) A projection of the amount of tax revenues that would have been allocated to each school district, county office of education, and community college district for the duration of the project area, but for the allocation of tax revenues pursuant to Sections 33670 and 33670.5.

(4) A projection of the amount of tax revenues that may be allocated to each school district, county office of education, and community college district pursuant to Sections 33401, 33607.5, 33607.7, and 33676 for the duration of the project area.

(b) When the redevelopment agency transmits the map of the project area pursuant to Section 33327, the agency shall also prepare and deliver to the Department of Finance, in the form and manner prescribed by the department, a report that includes all of the following:

(1) A projection of any change in the number of residents, including, but not limited to, the number of schoolage children, within the project area for the duration of the project area.

(2) A projection prepared by each school district, county office of education, and community college district within the project area of any change in the need for school facilities within the project area for the duration of the project area.

**§ 33328.3. Supplemental reports due to boundary change**

33328.3. If the boundaries of an existing project area for which the redevelopment plan contains a provision for the division of taxes as permitted by Section 33670 are changed pursuant to Article 4 (commencing with Section 33330), the redevelopment agency shall notify the county officials by transmitting to them, the legislative or governing bodies of the taxing agencies, and to the State Board of Equalization, the information required by Section 33327 indicating the areas to be added or detached. Within 60 days from the date of filing or a period as otherwise agreed to by the agency and the State Board of Equalization, the county officials shall prepare and submit to the redevelopment agency and the taxing agencies a report containing the information required under Section 33328, with respect to those areas to be added to or detached from the project area.

If a filing does not comply with the requirements of this section, the State Board of Equalization or the official of the taxing agency entitled to receive those documents shall notify the filing agency within 10 days, stating the manner in which the filing of documents does not comply with this section. If no notice is given, it shall be conclusively presumed that the agency has complied with the provisions of this section.

**§ 33328.4. Fee schedule**

33328.4. The State Board of Equalization shall establish a schedule of fees for filing and processing the statements and maps which are required to be filed with the State Board of Equalization pursuant to Section 33327, 33328.3, 33328.5, 33375, or 33457. This schedule shall not include any fee which exceeds the reasonably anticipated cost to the State Board of Equalization of performing the work to which the fee relates. The agency forwarding the statement and map pursuant to Section 33327, 33328.3, 33328.5, 33375, or 33457 shall accompany the statement and map with the necessary fee.

**§ 33328.5. Use of equalized assessment roll for different year than originally contemplated**

33328.5. (a) If a redevelopment agency proposes to use the equalized assessment roll for the year following the equalized assessment roll which the redevelopment agency advised it would use pursuant to Section 33328, the redevelopment agency shall, prior to the adoption of the redevelopment plan using that different equalized assessment roll, either notify the county officials, taxing agencies, and the State Board of Equalization of the change in the equalized assessment roll that it proposes to use for the allocation of taxes pursuant to Section 33670 or prepare a report containing the information specified in subdivisions (a), (b), (c), (d), (e), and (f) of Section 33328.

(b) Upon receipt of a notice pursuant to subdivision (a), the county officials charged with the responsibility of allocating taxes under Section 33670 and 33670.5 shall prepare and deliver to the redevelopment agency a report containing the information specified in subdivisions (a), (b), (c), (d), (e), and (f) of Section 33328. The report shall be prepared and delivered within the time periods specified in Section 33328 for reports prepared pursuant to that section. If a redevelopment agency gives the notice specified in subdivision (a), the redevelopment plan specified in the notice shall not be adopted until the time period for delivery of the report has expired.

(c) At least 14 days prior to the public hearing on the redevelopment plan for which the redevelopment agency proposes to use a different equalized assessment roll, the redevelopment agency shall prepare and deliver to each taxing agency a supplementary report analyzing the effect of the use of the different equalized assessment roll which shall include those subjects required by subdivisions (b), (e), and (n) of Section 33352. In lieu of a supplementary report, a redevelopment agency may include in the report required to be prepared pursuant to Section 33352, the information required to be included in the supplementary report.

(d) A redevelopment agency shall not be required to prepare a subsequent preliminary report specified in Section 33344.5, unless the report prepared pursuant to subdivision (b) states that the total assessed value in the project area is less than the total assessed value in the project area contained in the original report prepared pursuant to Section 33328, in which case a new preliminary report shall be prepared.

(e) The use of a different assessment roll pursuant to this section shall meet the requirements of Section 16 of Article XVI of the California Constitution.

(f) This section shall only apply to redevelopment plans adopted on or after January 1, 1993. The Legislature finds and declares that the enactment of this section shall not be deemed to invalidate or limit the adoption of redevelopment plans pursuant to a different procedure prior to January 1, 1993.

**§ 33328.7. Reimbursement for costs of preparing report**

33328.7. Any costs incurred by a county, a school district, a county office of education, or a community college district, in preparing a report pursuant to Section 33328, 33328.1, 33328.3, or 33328.5, shall be reimbursed by the redevelopment agency which filed for the report as provided in those sections. In the event a final redevelopment plan is adopted for all or a portion of the project area concerning which the report is prepared, the agency may charge and account for the reimbursed costs as a cost of the redevelopment project. Otherwise these costs shall be accounted for as general administrative expenses of the agency.

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